HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Friday, May 01, 2015
84th Legislature, Number 61
The House convenes at 9 a.m.
Part One

Thirty bills set for second-reading consideration on today's daily calendar are analyzed or digested in today's *Daily Floor Report*. Those in Part One are listed on the following page.

The HRO regrets that it is not possible to include analyses in today's *Daily Floor Report* of bills originally scheduled for consideration on Saturday and recently added to today's daily calendar. Any of those bills that are not considered today and are carried over to Monday will be analyzed in the Monday, May 4 *Daily Floor Report*.

Alma Allen
Chairman
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HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Friday, May 01, 2015
84th Legislature, Number 61
Part 1

SUBJECT: Waiving hunting, fishing license fees for certain disabled veterans

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 7 ayes — S. King, Frank, Aycock, Blanco, Farias, Schaefer, Shaheen

0 nays

WITNESSES: For — (*Registered, but did not testify*: Jim Brennan, Texas Coalition of Veterans Organizations)

Against — None

On — Justin Halvorsen, Parks and Wildlife Department; Kyle Mitchell, Texas Veterans Commission; (*Registered, but did not testify*: Michael Hobson, Parks and Wildlife Department)

BACKGROUND: Under Parks and Wildlife Code, sec. 42.012 the Texas Parks and Wildlife Commission is required to waive the fee of a hunting license for a "qualified disabled veteran," defined as a veteran who has a service connected disability consisting of the loss of the use of a lower extremity or a disability rating of 60 percent or greater and who is receiving federal compensation for the disability. The commission is also required to waive the fee for resident fishing license issued under Parks and Wildlife Code, sec. 46.004 to a qualified disabled veteran as defined under sec. 42.012.

Parks and Wildlife Code, ch. 50 authorizes the Texas Parks and Wildlife Department to issue combination hunting and fishing licenses to Texas residents. The department offers "super combo" (type 502) hunting and fishing licenses free of charge to qualified disabled veterans.

DIGEST: HB 721 would reduce from 60 percent to 50 percent the disability rating required for a veteran to be considered a qualified disabled veteran for the purpose of receiving a resident hunting or fishing license fee waiver.

The bill would take effect September 1, 2015.

SUPPORTERS SAY:

HB 721 would allow more disabled veterans to obtain hunting and fishing licenses at no cost. Too many disabled veterans are unable to take advantage of this benefit because the minimum threshold for a qualifying disability is too high. The Texas Parks and Wildlife Department estimates that more than 1,000 Texas disabled veterans participate in hunting and fishing activities using licenses they paid for because they have a disability rating of 50 percent, not the 60 percent required for the free license.

The bill would simplify and make more consistent benefits that disabled veterans receive in Texas. For example, a veteran with a 50 percent disability rating is eligible for disabled veteran license plates but not to receive free admission into state parks, which currently requires a disability rating of 60 percent. HB 721 would reduce this inconsistency and confusion by lowering the disability threshold to 50 percent, which would make the department's fee waivers more closely reflect other related U.S. Department of Veterans Affairs service-connected disability benefits.

According to the Legislative Budget Board, the bill would have no significant fiscal implication to the state and would result in a minimal loss to the Parks and Wildlife Department's game, fish, and water safety account.

OPPONENTS SAY:

While the service and sacrifice of disabled veterans should be honored, HB 721 would create a revenue loss for the Parks and Wildlife Department. The normal cost of a "super combo" license is $68. According to TPWD figures, the overall cost of issuing additional free licenses to qualified disabled veterans under the bill would amount to more than $170,000 per year.

SUBJECT: Consent for information maintained in the state's immunization registry

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — Crownover, Naishtat, Blanco, Coleman, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

1 absent — Collier

WITNESSES: For —Patrick Hodges, March of Dimes; Sobha Fuller and Courtney Sherman, Texas DNP Society; Ryan Van Ramshorst, Texas Pediatric Society, Texas Medical Association, Texas Public Health Coalition; Anna Dragsbaek, The Immunization Partnership; Roberta Mercer; Maria Perez; (*Registered, but did not testify*: Teresa Devine, Blue Cross and Blue Shield of Texas; Kathy Eckstein, Children's Hospital Association of Texas; Hayley Harris and Katherine Truettner, Dell Children's Hospital; Mary Staples, National Association of Chain Drug Stores; Georgia Armstrong, People's Community Clinic; Amber Pearce, Pfizer; Eileen Garcia, Texans Care for Children; Tom Banning, Texas Academy of Family Physicians; Jaime Capelo, Texas Academy of Physician Assistants; Rebekah Schroeder, Texas Children Hospital; Carrie Kroll, Texas Hospital Association; Thomas Ratliff, Texas Nurse Practitioners Association; Andrew Cates, Texas Nurses Association, Texas School Nurse Organization; David Reynolds, Texas Osteopathic Medical Association; Christine Cortelyou, Sarah Gammons, Rachael Johnston, Atoosa Kourosh, Julie Len, Miranda Loh, Jackson Londeree, Gaile Vitug, Julie Vo, and Krystyna Wesp, Texas Pediatric Society; Ellen Arnold, Texas PTA; James Swan, Texas Public Health Association; Will Decker and Gwen Emmett, The Immunization Partnership; Jason Terk, Texas Pediatric Society, Texas Medical Association, Texas Public Health Coalition; Casey Smith, United Ways of Texas; and 31 individuals)

Against —Dawn Richardson, National Vaccine Information Center and Parents Requesting Open Vaccine Education; Judy Powell, Parent Guidance Center; Michelle Schneider, Texans for Vaccine Choice;

Chelsea Barlow; Dianne Doggett; Read King; Lindsey Scheibe; (*Registered, but did not testify*: Betty Anderson, Montgomery County Eagle Forum; Cathie Adams, Texas Eagle Forum; MerryLynn Gerstenschlager, Texas Eagle Forum; Nancy Mccarthy, Texas Health Freedom Coalition; and 18 individuals)

On — Kelly Patson, Department of State Health Services

BACKGROUND:

Health and Safety Code, sec. 161.007 requires the Department of State Health Services to establish and maintain an immunization registry. Under this section of code, the commissioner of the Health and Human Services Commission must develop guidelines to require written or electronic consent from an individual or their legally authorized representative before the individual's information can be included in the immunization registry.

Written or electronic consent for an individual younger than 18 years old is required to be obtained only one time. Giving consent would allow an individual's immunization information to be included in the registry until the individual turns 18 years old, unless consent is withdrawn in writing or electronically.

After the individual turns 18 years old, the individual or the individual's legally authorized representative must consent in writing or electronically for the individual's information to remain in the registry after the individual's 19th birthday. DSHS may not include in the registry the immunization information of an individual who is 18 years old or older until written or electronic consent has been obtained as provided by sec. 161.007(a-2) of Health and Safety Code.

DIGEST:

CSHB 2171 would require an individual's parent, managing conservator, or guardian to submit written or electronic consent to the Department of State Health Services before the individual's 18th birthday for immunization information to be included in the state's immunization registry for an individual under 18 years old. Giving consent would allow an individual's immunization information to be included in the registry until the individual turned 26 years old, unless the consent was withdrawn. For information to be retained in the immunization registry

after an individual turned 26 years old, the individual would have to give written or electronic consent only once after the individual's 18th birthday.

The bill would require DSHS to make a reasonable effort to provide notice to individuals who had turned 18 years old to inform them that:

- their immunization records would be included in the registry until their 26th birthday unless the individual or a representative withdrew consent in writing or electronically before that date; and
- the individual or a representative would need to give consent before the individual's 26th birthday for the immunization records to remain in the registry after the individual turned 26 years old.

DSHS also would have to make a reasonable effort to provide notice to an individual who had turned 25 years old and whose parents had consented for the individual's information to be included in the immunization registry to inform the individual that their immunization records would remain in the immunization registry only until their 26th birthday unless the individual or the individual's representative renewed consent before that date.

Under the bill, a reasonable effort to provide notice would include at least two attempts by DSHS to provide notice to an individual by telephone or email, by regular mail to the individual's last known address, or by general outreach efforts through the individual's health care provider, school district, or institution of higher education. The bill would require DSHS to make a reasonable effort to obtain current contact information for written or electronic notices sent after an individual's 25th birthday that were returned due to incorrect address information.

The bill would repeal Health and Safety Code, sec. 161.007(a-3) that required the HHSC executive commissioner to develop by rule guidelines and procedures for obtaining consent from an individual after the individual's 18th birthday, including procedures for retaining immunization information in a separate database that would be inaccessible by anyone other than DSHS during the one-year period during which an 18 year old could consent to inclusion in the

immunization registry.

The bill would take effect September 1, 2015, and would apply only to immunization information in the immunization registry for a person who turned 18 years old on or after that date.

SUPPORTERS SAY:

By extending the time an individual's immunization record was maintained in the state's immunization registry, ImmTrac, from age 18 to age 26, CSHB 2171 would ensure that these important immunization records could be accessed securely, upon request, when they were needed most.

Currently, when an individual turns 18, the individual's immunization records are held separately from other ImmTrac data in "pending adult" status for a year and only added back to the regular ImmTrac system if the 18 year old provides consent before the individual's 19th birthday. Otherwise, the records are permanently deleted from ImmTrac. The current practice of deleting records when an individual does not consent to retain their records in ImmTrac within a year of the individual's 19th birthday causes increased health care costs when individuals have to be re-vaccinated to provide a health record for enrolling in school, entering the military, international travel, or changing health care providers. Under the current system, individuals often do not know that their records will expire and do not intend for their records to be deleted from ImmTrac.

CSHB 2171 would give individuals more time to re-authorize the inclusion of their immunization records in ImmTrac by requiring DSHS to notify individuals who turned 18 and whose parents had already consented for them to be included in ImmTrac that their records would expire when they turn 26 if they did not renew their consent. The required consent under the bill would also notify individuals that their parents had consented for their immunization records to be included in ImmTrac and would give those individuals the notice they need to opt out of the system.

The bill would not change DSHS' practice of keeping the records of 18-year-olds separate from the rest of the ImmTrac system before they had given consent. Under the bill, those aged 18 to 25 who had not consented or withdrawn consent for their records to be included in ImmTrac would

not have their records included in ImmTrac proper; those records would be kept separate from the main ImmTrac system until the young adult gave positive consent. If the person had still not given consent or withdrawn consent when the person turned 26, the data would be deleted permanently.

The bill would not affect an individual whose parents had never consented to include the individual's records in ImmTrac and would not require anyone to be vaccinated or included in the registry without consent. State law prohibits the government from including individuals' immunization records in ImmTrac without their consent. For this reason, an adult's records would be held separately from ImmTrac under the bill until DSHS received positive consent.

OPPONENTS SAY:

The bill would reduce an adult's control over their medical information. Even with the notice requirements in the bill, an adult may not receive notice that their parents had consented for their immunization records to be included in ImmTrac and would not know that their records would be kept in the system, even separately from the regular ImmTrac system, for the next eight years. The current system of deleting an individual's records when they turn 19 and have not provided consent should be kept in place.

The ImmTrac system can be accessed by the state government for public health purposes. For this reason, the bill would not adequately protect adults from having their immunization records included as part of this system and would not adequately prevent another entity from viewing immunization records.

SUBJECT: Reinstating apprentice water well driller and pump installer programs

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 10 ayes — Keffer, Ashby, D. Bonnen, Burns, Frank, Kacal, T. King, Larson, Lucio, Nevárez

0 nays

1 absent — Workman

WITNESSES: For — Gregory Ellis, Mesa Underground Water Conservation District; Ty Embrey, Middle Trinity Groundwater Conservation District, Clearwater Underground Water Conservation District, Panola County Groundwater Conservation District; (*Registered, but did not testify*: Richard Young, City of El Campo Texas.; Dirk Aaron, Clearwater Underground Water Conservation District; Lowell Raun, Coastal Bend Groundwater Conservation District, Texas Rice Producers Legislative Group; Robby Cook, Hemphill County Underground Water Conservation District; Cyrus Reed, Lone Star Chapter Sierra Club; C.E. Williams, Panhandle Groundwater Conservation District; Jim Conkwright, Prairielands Groundwater Conservation District; Stacey Steinbach, Texas Alliance of Groundwater Districts; Dean Robbins, Texas Water Conservation Association.; Brian Sledge, Texas Water Conservation Association, Prairielands Groundwater Conservation District, North Texas Groundwater Conservation District, Upper Trinity Groundwater Conservation District, Lone Star Groundwater Conservation District, and Barton Springs Edwards Aquifer Conservation District; J. Thomas Wynn)

Against — None

On — Lee Parham, Texas Department of Licensing and Regulation

BACKGROUND: Occupations Code, ch. 1901 governs water well drillers. Under sec. 1901.251, water well drillers are required to keep legible and accurate well logs in accordance with rules adopted by the Texas Commission on Licensing and Regulation and on forms prescribed by the executive

director.

The well log must be recorded at the time of drilling, deepening, or otherwise altering the well and must contain certain information about the strata and well casing. Within 60 days of completion, the driller must deliver or send by certified mail a copy of the well log to TDLR, the Texas Commission on Environmental Quality, and the owner of the well or the person for whom the well was drilled.

DIGEST:

CSHB 930 would provide the Texas Department of Licensing and Regulation (TDLR) with authority to reinstate its apprentice water well driller program and apprentice water well pump installer program. The bill would require TDLR to adopt rules to reestablish these programs.

CSHB 930 would amend the Occupations Code, ch. 1901, relating to water well drillers, by making various technical changes to the water well driller application process, as well as the following:

- requiring TDLR to offer examinations for a water well driller license year round, rather than at least once a year; and
- eliminating the requirement for a water well driller to submit a well log by certified mail, allowing the driller instead to send the log either by first-class mail or electronically.

The bill also would remove language in current law specifying that TDLR offer water well pump installer license examinations at least once a month or more frequently if more than 10 people petition for an additional examination.

CSHB 930 would take effect September 1, 2015.

SUPPORTERS SAY:

CSHB 930 would allow the Texas Department of Licensing and Regulation (TDLR) to reinstate two successful programs that once served as a pathway to licensure for drilling and pump installation professionals.

The apprentice water well driller and water pump installer programs were discontinued in 2012 due to the discovery that TDLR lacked the statutory authority to continue administering them. This bill would give the

department the statutory authority to reinstate these apprenticeship programs that are valuable to the well-drilling industry.

There is demand within the industry for TDLR to bring back the programs. Currently, licensed drillers and pump installers are responsible for well and pump installation and are required to be onsite throughout the installation process. The apprenticeship programs would confer to trainees site management and specific experience related to water well drilling and pump installation. The programs would allow for one license holder to supervise multiple drilling and pump installation sites by visiting each twice a day and remaining within two hours' travel time from each.

The apprenticeship programs would encourage business expansion and particularly would enable small businesses to grow and better serve consumers who quickly need wells drilled or water well pumps installed or repaired. In addition, some in the industry do not want the responsibility of holding a license and would prefer to be full-time apprentices.

These programs would allow TDLR to track the training of apprentices before they applied for licensure. Apprentices would be registered through the programs, which would enable them to place their names and registration numbers on the well reports, allowing TDLR to review their work. This would help ensure the training of qualified applicants and the protection of groundwater.

OPPONENTS SAY:

No apparent opposition.

SUBJECT: Delaying curtailment of groundwater use for power generation or mining

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 10 ayes — Keffer, Ashby, D. Bonnen, Burns, Frank, Kacal, Larson, Lucio, Nevárez, Workman

0 nays

1 absent — T. King

WITNESSES: For — Ches Blevins, Texas Mining and Reclamation Association; Lindsey Hughes, Texas Competitive Power Advocates; Stephen Minick, Texas Association of Business; William Moore, Luminant Generation Company; Mike Nasi, Water-Energy Nexus for Texas Coalition; (*Registered, but did not testify*: Jacob Arechiga, Balanced Energy for Texas; Walt Baum and Chris Miller, Association of Electric Companies of Texas; Kevin Cooper, GDF Suez Energy; Eric Craven, Texas Electric Cooperatives; Rick Levy, Texas State Association of Electrical Workers-IBEW); Parker McCollough, NRG Energy, Inc.; Larry McGinnis, Exelon Corporation; Amanda McPherson, Lower Colorado River Authority; Mike Nasi, South Texas Electric Cooperative; Kari Torres, CPS Energy; Mance Zachary, Luminant; Mark Zion, Texas Public Power Association)

Against — Alan Day, Brazos Valley Groundwater Conservation District; C.E. Williams, Panhandle Groundwater Conservation District; (*Registered, but did not testify*: Roy Cathey, Environment Texas; Harvey Everheart, Mesa Underground Water Conservation District; Tom Forbes, North Plains Groundwater Conservation District; Myron Hess, National Wildlife Federation; Billy Howe, Texas Farm Bureau; Ken Kramer, Sierra Club-Lone Star Chapter; Joey Park, Texas Wildlife Association; Lowell Raun, Coastal Bend Groundwater Conservation District, Texas Rice Producers Legislative Group; Jason Skaggs; Texas and Southwestern Cattle Raisers Association; Dee Vaughan, Corn Producers Association of Texas; Paul Weatherby, Middle Pecos Groundwater Conservation District; Hope Wells, San Antonio Water System)
On — Brian Sledge, North Texas Groundwater Conservation District,

Upper Trinity Groundwater Conservation District, Prairielands Groundwater Conservation District, and Lone Star Groundwater Conservation District; Stacey Steinbach, Texas Alliance of Groundwater Districts; (*Registered, but did not testify*: Warren Lasher, Electric Reliability Council of Texas; Bill Stevens, Texas Alliance of Energy Producers)

DIGEST:

CSHB 2647 would amend Water Code, ch. 36 to allow a power generation facility or its associated mine to petition a groundwater conservation district for a delay of any district action that would reduce or curtail production from its groundwater well or limit the groundwater production rate of its well to certain maximum annual amounts.

Once a district received a petition, it would be required to hold a public hearing and make a final determination as to whether the proposed reduction or curtailment in groundwater production threatened public health or safety or the reliability of the electric grid. The proposed reduction or curtailment could not take effect until the district made a final determination.

If the district determined it would threaten public health or safety or the reliability of the electric grid, the district would have to delay the reduction or curtailment by at least seven years.

If an owner or operator received a delay, the owner or operator could petition the district a second time for an additional three-year delay. The district would have to hold a public hearing and make a final determination to approve the additional three-year delay if the district determined that:

- the owner or operator had engaged in good faith efforts to identify and begin implementing strategies to comply with the proposed reduction or curtailment; and
- implementing the reduction or curtailment at the seven-year date threatened public health or safety or the reliability of the electric grid.

In making final determinations, the district would have to request, obtain,

and give great weight to an opinion issued by the Public Utility Commission of Texas.

CSHB 2647 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY:

CSHB 2647 would balance the needs of the power generation industry with the responsibility of groundwater districts to manage water resources. Power plants and their associated mines have a predictable need for water and therefore pump only what they need. Because most operations already implement reuse and recycling measures to get the most beneficial use, a plant could shut down if water were curtailed below the necessary amount. This bill would allow a power generator or its associated mine to petition for a delay if a groundwater conservation district imposed a curtailment of groundwater production.

The bill as filed would have precluded groundwater conservation districts from curtailing groundwater use for power generators and their associated mines. Concerns that the bill would have created a guaranteed protection for these uses were addressed with stakeholder input. The committee substitute would strike the right balance by allowing curtailment, but the implementation could be delayed by up to 10 years upon a determination from the district that the curtailment could threaten public health, safety, or reliability of the grid. This would allow generators adequate opportunity to plan for a curtailment, including the need to secure additional water rights.

Curtailments relating to groundwater typically are in response to long-term planning situations, such as achieving the desired future condition of an aquifer. A long-term planning horizon would be capable of absorbing a 10-year curtailment delay, especially considering the small percentage of groundwater typically used for power generation and mining.

While there are concerns that the bill could result in takings litigation against a district, that would be unlikely. Courts have found that at least 50 percent of the value of a property must be destroyed for a takings claim to be found. Because only a small percentage of groundwater is used for

power generation and mining, the distribution across other users would be so minimal that the low risk for a takings claim would not outweigh the benefit that all Texans receive from having affordable and reliable electricity.

OPPONENTS SAY:

While CSHB 2647 would address stakeholder concerns in that it would require power generators to petition a district for an exemption from curtailment, the curtailment could be delayed for up to 10 years. Such a long-term delay would not encourage water conservation or planning and would shift the burden of curtailment onto other water right holders. A more appropriate solution would be for a power generator or mining operation to buy additional water rights to make up the difference of a curtailment.

Curtailment of groundwater production should be spread among all users. Singling out one type of user for special treatment could lead other users to expect special treatment. Regulating based on type of use could be a violation of private property rights. By not curtailing one user, a district would need to further curtail other users, which could result in takings litigation against a district.

Further, any restriction on curtailment could prevent a groundwater district from meeting the statutory requirement of achieving the desired future condition of an aquifer.

The bill also would require the groundwater conservation districts to give deference to the Public Utility Commission in making a final determination on a curtailment. It is unclear what that could mean and what effect it could have in the standard of review.

SUBJECT: Establishing the Recruit Texas Program for workforce development

COMMITTEE: Economic and Small Business Development — favorable, without amendment

VOTE: 9 ayes — Button, Johnson, C. Anderson, Faircloth, Isaac, Metcalf, E. Rodriguez, Villalba, Vo

0 nays

WITNESSES: For — Joe May, Dallas County Community College District; Dana Harris, Greater Austin Chamber of Commerce; Linda Head, Lone Star College; Mario Lozoya, Toyota Motor Manufacturing Texas; (*Registered, but did not testify*: Seth Mitchell, Bexar County Commissioners Court; June Deadrick, CenterPoint Energy; Tom Tagliabue, City of Corpus Christi; Megan Dodge, City of San Antonio; Jennifer Poteat-Phelps, Community College Association of Texas Trustees; Jay Barksdale, Dallas Regional Chamber; Drew Scheberle, Greater Austin Chamber of Commerce, Metro 8 Chambers of Commerce; Mike Meroney, Huntsman Corp., BASF Corp., and Sherwin Alumina, Co.; Annie Spilman, National Federation of Independent Business; Chris Shields, San Antonio Chamber of Commerce; Nelson Salinas, Texas Association of Business; Steven Johnson, Texas Association of Community Colleges; Stephen Minick, Texas Association of Business; Hector Rivero, Texas Chemical Council; Carlton Schwab, Texas Economic Development Council; Mari Ruckel, Texas Oil and Gas Association; Tanya Vazquez, Toyota Motor North America; Stephanie Simpson, Texas Association of Manufacturers; Casey Smith, United Ways of Texas; Guy Robert Jackson)

Against — None

On — (*Registered, but did not testify*: Aaron Demerson, Texas Workforce Commission)

BACKGROUND: Labor Code, ch. 303 governs the Skills Development Fund, which was established to increase the responsiveness of public community colleges, technical colleges, community-based organizations, and the Texas

Engineering Extension Service to industry and workforce training needs.

The Skills Development Fund may be used to develop customized job training for businesses. It also may be used to encourage employers and colleges to collaborate on workforce training, including for prospective employers who have committed to establishing a place of business in the state.

Sec. 303.003(c) stipulates that money from the Skills Development Fund may not be used to pay training and related costs of an employer who is relocating from one part of the state to another.

DIGEST:

HB 1155 would create the Recruit Texas Program within the Texas Workforce Commission (TWC) to provide rapid response workforce training and support services to employers, particularly those offering high-skilled jobs, who may expand or relocate their operations to Texas.

The bill would require the commission to serve as a leader and intermediary between out-of-state employers, economic development organizations, local workforce development boards, and public junior and technical institutions. In this role, the commission would be responsible for addressing employers' recruitment needs to encourage their presence in the state.

The commission could award grants to junior and technical colleges to assist them with the costs of providing workforce training and support services to would-be employers. These grants would be distributed by the executive director or someone appointed by the executive director with experience in grant administration.

Funding for the Recruit Texas Program would be provided through money appropriated to TWC and through other statutorily authorized funding sources. The commission could make funding from the program to employers contingent upon whether the employer established or expanded businesses operations in the state. The bill would not allow funds from the program to be used to pay training and related costs of an employer who was relocating from one part of the state to another.

TWC could adopt rules as necessary to implement the provisions of the bill.

The bill would take effect September 1, 2015.

SUPPORTERS SAY:

HB 1155 would bring a needed competitive edge to the way Texas recruits and retains high-quality employers by establishing the Recruit Texas Program. Texas is losing employers to other states that have created innovative programs to address workforce shortages by promising a highly trained or ready-to-train employee pool upon the employer's commitment to the state. A recent study by the Office of the Comptroller of Public Accounts found the most commonly cited reason for employers who were considering moving to Texas but ended up elsewhere was a lack of available workforce and training programs.

The Skills Development Fund offers funds to employers and schools already committed to the state. The Recruit Texas Program, by providing grants to junior and technical colleges to get a headstart on hiring or training needed faculty, would address training needs early in the process of recruiting businesses.

While the Texas Enterprise Fund offers incentives directly to businesses, HB 1155 would provide a benefit to businesses as well as higher education institutions and students. The bill would not pick winners and losers among businesses using state funds; instead, these funds would benefit Texans by making employment-oriented education and training available to them.

The program also could provide an array of support services, such as labor market analyses and recruitment activities. There would be no disadvantage to local businesses under the bill because the program would enable businesses expanding in Texas to access these benefits.

Some cities already have pledged funds to accommodate this program, which has the support of several business organizations. Although the House version of the budget would place the funding needed for the Recruit Texas Program in Article 11, the Senate version of the budget would allow funding for the program to be taken from the Skills

Development Fund. As the budget process progresses, there still will be opportunities to pass a budget that would finance the program without dipping into the Skills Development Fund. The TWC ultimately could decide the best method of funding for the Recruit Texas Program.

The bill would protect state resources in the same way that the Skills Development Fund does, by requiring employers to locate here first before disbursing funds. The bill also would prohibit funds to be used for employers simply moving from one part of the state to another.

OPPONENTS SAY:

Because the current budget proposals do not contain any separate funding for the Recruit Texas Program, HB 1155 would establish a program that may not be sustainable. Funds other than those from the Skills Development Fund need to be secured to support the program.

Texas benefits from a large number of highly educated workers, a low cost of living, and low utility rates. Offering incentives such as the Recruit Texas Program is not necessary to attract jobs to Texas. In addition, the state should not be in a position of picking winners and losers by offering benefits to businesses it is recruiting.

OTHER OPPONENTS SAY:

HB 1155 would create a program that would function in a manner that was similar to the way the Skills Development Fund works informally. Schools and cities already use the Skills Development Fund program as a benefit to attract businesses seeking to relocate.

NOTES:

According to the Legislative Budget Board’s fiscal note, HB 1155 would have an estimated negative net impact of $10.3 million to general revenue funds through fiscal 2016-17.

SUBJECT: Prohibiting powdered alcohol

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 8 ayes — Smith, Gutierrez, Geren, Goldman, Kuempel, Miles, D. Miller, S. Thompson

0 nays

1 absent — Guillen

WITNESSES: For — (*Registered, but did not testify*: Jim Short, SPEC's; Lance Lively, John Rydman, Texas Package Stores Association; Drew Campbell, Total Wine and More; Tom Spilman, Wholesale Beer Distributors of Texas)

Against — None

On — Grace Barnett, Texans Standing Tall; (*Registered, but did not testify*: Sherry Cook, Thomas Graham, Texas Alcoholic Beverage Commission)

BACKGROUND: Under Alcoholic Beverage Code, sec. 103.01 the possession, manufacture, transportation, or sale of illicit beverages is prohibited. Illicit beverages are defined in Alcoholic Beverage Code, sec. 1.04(4).

Alcohol Beverage Code, sec. 101.65 prohibits the manufacture, import, sale, or possession for the purpose of selling alcoholic beverages made from certain substances, including any compound made from synthetic materials, substandard wines, and imitation wines.

DIGEST: HB 1018 would make powdered alcohol an illicit beverage under the Alcoholic Beverage Code. The bill would prohibit the manufacture, import, sale, service, or possession for the purpose of sale alcohol made from powered alcohol, whether alone or reconstituted.

The bill also would expand the actions in Alcoholic Beverage Code, sec.

101.65 that currently are prohibited as they relate to alcoholic beverages made from certain substances to include serving the beverages. The bill would prohibit the serving of alcoholic beverages made from any compound made from synthetic materials, substandard wines, imitation wines, or must concentrated at any time to more than 80 degrees Balling.

The bill would take effect September 1, 2015.

SUPPORTERS SAY:

HB 1018 is needed to address a new and dangerous alcoholic substance — powdered alcohol — before it reaches shelves in Texas stores. Recent federal approval means the substance soon could be available in Texas unless otherwise prohibited. The company currently marketing a powered alcohol product reports that it hopes to have its product for sale by the summer of 2015. Texas should ban powdered alcohol, just as the state bans other dangerous substances in alcohol, to prevent the problems and potentially dangerous situations powdered alcohol could foster.

Powdered alcohol, which can be added to a liquid to make an alcoholic beverage, represents a danger because of its high potential for abuse and public health concerns, especially to underage drinkers who might be attracted to the product. Powdered alcohol could be the latest version of Four Loko, a caffeinated alcoholic beverage that raised numerous public health and safety concerns and garnered much media attention. As Texas and other states and the federal government debated banning the product, it was reformulated by the manufacturer.

Because of its novel form, consumers could abuse powdered alcohol by using it to overconsume alcohol. Alternative and dangerous ways of ingesting powdered alcohol, such as sprinkling it on food or snorting it, could be especially attractive to underage drinkers. There also are concerns about the ease with which powdered alcohol could be mixed with liquid alcohol or mixed into concentrations stronger than recommended.

Given its size and portability, powdered alcohol also could be easy to transport and conceal. It could be taken into places, such as schools and movie theaters, where alcohol is banned or places where alcohol is sold onsite. Because of its powdered form, the substance may not be

recognized as alcohol. If consumed in places where alcohol is sold legally, powdered alcohol could cut into legal sales and tax revenue. The easily concealable nature also could help facilitate illegal sales outside of liquor stores. Potential black market sales are not a reason not to ban a dangerous product. Black market sales would be countered in the same manner as they are with liquid alcohol.

The bill would address these concerns by placing powdered alcohol on the list of the state's illicit beverages, making it prohibited to possess, manufacture, transport, or sell. Peace officers can seize illicit beverages and can arrest those possessing them. The bill also would prohibit beverages made from powdered alcohol.

While there may be non-beverage uses of powdered alcohol, these claims are mostly speculative. If they came to fruition in a way that was banned by the bill, the Legislature could revisit the statutes.

With this bill, Texas would join Alaska, Louisiana, South Carolina, Utah, Vermont, and Virginia in banning the sale of powdered alcohol. Other states are considering similar laws, according to the National Conference of State Legislatures.

OPPONENTS SAY:

Powdered alcohol should not be singled out and banned but instead should be regulated and taxed like any other alcohol product. Concerns about potential misuse could be based on misinformation and speculation, given that the product has not been on the market. Texas consumers should have the same freedom to consume powdered alcohol that they do to consume liquid alcohol.

Powdered alcohol would be sold in the same locations, with the same oversight, regulations, and restrictions as liquid alcohol. In Texas, it could be sold only where mixed beverages could be sold and only to those over 21 years old. Potential problems with powdered alcohol and concerns about underage drinkers also could be raised about liquid alcohol and could be handled in the same manner: regulation, enforcement, and education.

Concerns that powdered alcohol would be consumed in an irresponsible or

dangerous manner are unfounded. For example, snorting would be painful, impractical, and time-consuming, given the large volume of powder needed to equal one drink. Concerns about mixing it with other alcoholic drinks, using it to spike drinks, or consuming it in strong concentrations are no different from concerns about the use of liquid alcohol.

Powdered alcohol would not be any easier than liquid alcohol to transport or conceal in places in which it is now banned. The pouches are large compared to some bottles of alcohol and have to be reconstituted before being consumed, something that takes space and time. A ban on powdered alcohol could increase interest in it and feed a black market for the product, which could facilitate purchases by underage drinkers.

Banning the product could make it unavailable to responsible adults for uses such as camping and travel. The bill also could make powered alcohol unavailable for potential uses as medicine, fuel, manufacturing, and other businesses.

SUBJECT: Reducing duplicate reports and paperwork for school districts

COMMITTEE: Public Education — favorable, without amendment

VOTE: 9 ayes — Aycock, Allen, Bohac, Deshotel, Galindo, González, Huberty, K. King, VanDeaver

0 nays

2 absent — Dutton, Farney

WITNESSES: For — Sally LaRue and Cara Schwartz, Texas Council of Administrators of Special Education; (*Registered, but did not testify*: Barbara Frandsen, League of Women Voters of Texas; Ted Melina Raab, Texas American Federation of Teachers; Nelson Salinas, Texas Association of Business; Colby Nichols, Texas Association of Community Schools ; Texas Rural Education Association; Casey McCreary, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards; Lonnie Hollingsworth, Texas Classroom Teachers Association; Janna Lilly, Texas Council of Administrators of Special Education; Mark Terry, Texas Elementary Principals and Supervisors Association; Michael Pacheco, Texas Farm Bureau; Courtney Boswell, Texas Institute for Education Reform; Cameron Petty, Texas Institute for Education Reform; Monty Exter, The Association of Texas Professional Educators)

Against — None

On — Steven Aleman, Disability Rights Texas; (*Registered, but did not testify*: Von Byer, Texas Education Agency)

BACKGROUND: Education Code, sec. 7.060 requires the education commissioner at least once every even-numbered year to review and, to the extent practicable, reduce the amount of paperwork and written reports the Texas Education Agency requires of school districts.

Sec. 11.201 establishes the role and duties of the superintendent in a school district.

DIGEST:

HB 1706 would amend Education Code, sec. 7.060 to include in the education commissioner's review of mandated reports and paperwork a comparison of those documents required by state law and those required by federal law. The commissioner would be required to eliminate state-mandated paperwork and reports that duplicate the content of federally mandated paperwork and reports.

The bill would require a school district's superintendent to ensure that a copy of any report mandated by federal law, rule, or regulation was delivered to the Texas Education Agency.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY:

HB 1706 would decrease the amount of reports and paperwork school districts currently must submit to the state. School districts spend a significant amount of time manually monitoring compliance and information related to student outcomes through gathering and analyzing paperwork. This work is onerous, redundant, and provides little insight into improving student outcomes.

This bill would alleviate the amount of paperwork school district employees had to produce. Spending less time on paperwork would permit essential personnel to actively focus on student outcomes. Because the bill would require the elimination only of redundant paperwork, the state would not lose any valuable information by enacting this legislation.

OPPONENTS SAY:

HB 1706 would fail to recognize the nuances of Texas' education monitoring system. Information the federal government requires may not be analyzed and measured in the same way Texas' system analyzes and measures information. While reducing the paperwork and reports school districts must process is a worthy goal, the Legislature should be careful about what information might be lost in the simplification process.

SUBJECT: Prohibiting duty to defend provisions in certain governmental contracts

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 6 ayes — Smith, Gutierrez, Goldman, Kuempel, Miles, D. Miller

0 nays

3 absent — Geren, Guillen, S. Thompson

WITNESSES: For — Gregg Bundschuh, American Council of Engineering Companies Texas; Bob Jones; (*Registered, but did not testify*: Michael Chatron, AGC Texas Building Branch; Brandi Bird, Burns and McDonnell; Douglas Varner, CDM Smith; Eric Woomer, Structural Engineers Association of Texas; Cathy Dewitt, Texas Association of Business; David Lancaster, Texas Society of Architects; Jennifer Mcewan, Texas Society of Professional Engineers)

Against — Barbara Armstrong, Harris County; Michael Pichinson, Texas Association of Counties; John Dahill, Texas Conference of Urban Counties; Scott Houston, Texas Municipal League; (*Registered, but did not testify*: Tom Tagliabue, City of Corpus Christi; Jim Allison, County Judges and Commissioners Association of Texas; Donna Warndof, Harris County; Mark Mendez, Tarrant County Commissioners Court)

On — (*Registered, but did not testify*: Perry Fowler, Texas Water Infrastructure Network)

BACKGROUND: Local Government Code, sec. 271.904 prohibits contracts for engineering or architectural services involving a governmental entity from containing certain provisions. The contract cannot contain a provision that requires the licensed engineer or registered architect to indemnify, hold harmless, or defend the governmental agency against liability for damage. There is an exception when the liability involves damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by

the contractor.

DIGEST:

HB 2049 would prohibit certain provisions in contracts for engineering or architectural services involving a governmental entity and would require a specific standard of care to be included in those contracts.

The bill would specify to what extent a licensed engineer or registered architect (contractor) contracting with a governmental entity could agree to a provision requiring the contractor to indemnify the governmental entity. The contractor would be held liable for damage only to the extent that the damage was caused by an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier by the contractor.

If a contract contained an indemnification provision as described above, the bill would prohibit it from requiring a duty to defend. The bill would allow a provision authorizing the governmental entity to seek reimbursement of reasonable attorney's fees after a final adjudication deciding that the contractor was liable due to an act of negligence, intentional tort, intellectual property, or failure to pay a subcontractor or supplier.

The bill would require a contract for engineering or architectural services involving a governmental entity to include the standard of care that the contractor's performance must meet. The contractor would be required to perform services:

- with the professional skill and care ordinarily provided by engineers or architects practicing in the same or similar locality and under the same or similar circumstances; and
- as expeditiously as was prudent considering the ordinary professional skill and care of an engineer or architect and the orderly progress of the project.

If a contract included a provision establishing a different standard of care than the one described above, the provision would be void and unenforceable. The bill would change the title of Local Government Code, sec. 271.904 to reflect the changes contained in the bill.

The bill would take effect September 1, 2015, and would apply only to a contract for which a request for proposals or a request for qualifications was first published or distributed on or after that date.

SUPPORTERS SAY:

HB 2049 would correct a recent trend in certain governmental contracts and prevent contractors from taking on a duty that was uninsurable. The bill would promote fundamental fairness and good public policy by protecting contractors that do not have equal bargaining power with governmental entities. The contracts for engineering or architectural services usually are drafted by governmental entities, and contractors have little power to object to certain provisions, such as a duty to defend. Duties to defend are uninsurable under professional liability insurance policies and are a financial risk to contractors.

The bill would promote fair dealings in these contracts because often mistakes that cause litigation later in a project occurred during the planning stage, when governmental entities were most involved. Contractors would not be financially responsible for defending governmental entities against lawsuits until it was finally adjudicated that the contractor was liable.

The bill would address a recent trend, as duty to defend provisions have not historically appeared in these contracts. The bill would not be fixing a problem so much as protecting against potential issues for contractors. Because the bill essentially would maintain the status quo, it would not have a detrimental effect on various groups as suggested by opponents.

The bill would require these contracts to include a certain standard of care. This would protect the contractors from being held to a heightened standard of care that could be unreasonable in the industry, as well as uninsurable under professional liability insurance policies. It is common for standards of care to refer to the location of the contractor, but that would not give an out-of-town contractor the excuse to perform sub-standard work because the standard would apply to the area of practice, not the contractor’s home.

Under the bill, if the contract contained a heightened standard of care that

was void, there still would be an applicable standard of care. The bill would require a standard of care in these contracts, and that would be the applicable standard if the heightened standard was unenforceable.

The bill would not specify whether governmental entities could recoup attorney's fees in the event of a settlement or mediation of litigation prior to a final adjudication. In these situations, the parties could negotiate an agreement apportioning attorney's fees.

OPPONENTS SAY:

HB 2049 could shift the burden to defend unfairly to governmental entities, which generally do not micromanage projects they have hired contractors to complete. Under current law, a duty to defend or indemnify only arises when there is a lawsuit for negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier. While there can be joint liability for an act of negligence, that is not the case for a failure to pay a subcontractor. This bill would force governmental entities to defend against those claims until a final adjudication revealed that it was the contractor's fault.

The bill could affect taxpayers and businesses because it could increase litigation costs for governmental entities and cause some to no longer offer contracts to private businesses but instead to shop in-house for engineers or architects. The bill also could burden governmental entities with micromanaging projects to ensure no liability did arise.

The bill could discourage cooperation among contractors and governmental entities in the event of a lawsuit because if it was shown that the contractor was at fault, they would be responsible for the attorney's fees. This could create more litigation among the contracting parties to sort out each party's liability and costs.

The bill would require an unreasonable standard of care in these contracts. It would specify that the contractor's performance should be compared to that of other contractors practicing in the same or similar locality. This would allow an out-of-town contractor to claim a lower standard of care as compared to the area where the project was located.

The bill also could create a loophole for the standard of care required. It

would void a heightened standard of care, allowing no standard of care to apply. That would be a bad precedent to set.

The bill could limit unfairly governmental entities' ability to recoup attorney's fees from contractors. It would specify that governmental entities could seek reimbursement of attorney's fees only after a final adjudication of liability that showed a contractor was liable for negligence, intentional tort, intellectual property infringement, or the failure to pay a subcontractor or supplier. The bill would be silent about what would happen if the governmental entity settled or mediated the case before it was finally adjudicated. Since most lawsuits are resolved before final adjudication, this bill essentially would ensure that governmental entities could not seek reimbursement for attorney's fees from contractors.

SUBJECT: Increasing the civil penalty for junkyards in unincorporated Harris County

COMMITTEE: Transportation — favorable, without amendment

VOTE: 8 ayes — Pickett, Martinez, Y. Davis, Israel, Murr, Paddie, Phillips, Simmons

0 nays

4 absent — Burkett, Fletcher, Harless, McClendon

WITNESSES: For — Richard Cantu, East Aldine Management District; Sarah Utley, Harris County Attorney's Office

Against — None

BACKGROUND: Transportation Code, ch. 397 establishes safety and other regulations for automotive wrecking and salvage yards established after 1983 in unincorporated areas of Harris County. It specifies requirements for fences, drainage, storage, and junkyard locations in those areas. An offense under this chapter is a class C misdemeanor (maximum fine of $500). A person who violates ch. 397 also is liable for a civil penalty for each violation of between $500 and $1,000.

In 2013, the 83rd Legislature enacted HB 3085 by Walle, which would have raised the maximum fine for violating ch. 397 to $5,000. Gov. Rick Perry vetoed HB 3085 on June 14, 2013.

DIGEST: HB 691 would increase to $5,000 the maximum civil penalty for operating a Harris County junkyard in violation of Transportation Code, ch. 397.

The bill would take effect September 1, 2015, and would apply only to a violation that occurred on or after that date.

SUPPORTERS SAY: HB 691 would provide stiffer civil penalties to address the problems posed by non-compliant junkyards in unincorporated Harris County. Beyond being eyesores, these junkyards create safety, environmental, and

fire hazards

The bill would add another enforcement tool to what can be an intractable problem in Harris County. Many bad actors treat the current $1,000 fine as a cost of doing business, particularly where the compliance costs would be greater than the fine amount. Because unincorporated Harris County has no zoning requirements, junkyards can be located near homes, churches, and schools. Junkyard operators often stack cars above the height of the fence line, which is unsightly. While this activity violates the ordinance, operators continue to do it because of the weak penalties for violations. Environmental hazards that noncompliant junkyards can create include dangerous chemicals draining into surrounding properties. Although Transportation Code, ch. 397 requires operators to drain gasoline out of fuel tanks, they ignore this safety hazard because the current fines for violating this and other requirements are too low.

Before the county takes an enforcement action, authorities work with yard operators to come into compliance. Authorities also confirm that the junkyards are actual businesses. Because of the way enforcement is conducted, a person simply storing and repairing cars on his or her property would not be assessed the $5,000 penalty under HB 691. Judges and prosecutors have discretion with violations under Transportation Code, ch. 397, and it is unlikely that noncompliant small operators would be fined $5,000. That fine would be used for large-scale operators who egregiously violated the statute.

OPPONENTS SAY:

Under HB 691, individuals who simply were working on cars as a side business or who owned a few cars with intent to sell could be fined up to $5,000. Transportation Code, ch. 397 requires only three vehicles on a property for it to qualify as a junkyard, so someone repairing a few cars who was not operating a junkyard could be liable to unnecessarily high penalties. This could be an overreach in response to a quality-of-life offense.

SUBJECT: Public health nuisances on undeveloped land in Harris County

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 8 ayes — Coleman, Farias, Burrows, Romero, Schubert, Spitzer, Tinderholt, Wu

1 nay — Stickland

WITNESSES: For — (*Registered, but did not testify*: Donna Warndof, Harris County; Michael Schaffer, Harris County Public Health and Environmental Services; Bradford Shields, Travis County Commissioners Court)

Against — None

BACKGROUND: Health and Safety Code, sec. 343.002 defines "weeds" to mean all rank and uncultivated vegetable growth or matter that has grown to be more than 36 inches tall or that may create an unsanitary condition or become a harborage for rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds.

Sec. 343.011, which applies only to the unincorporated areas of a county, states that a person may not cause, permit, or allow a public nuisance, as delineated by that section.

Harris County authorities have reported responding to public nuisance complaints on undeveloped land upon which no hazard to safety, health, and well-being actually exists.

DIGEST: Under CSHB 1643, on undeveloped land in unincorporated areas of Harris County, a public nuisance would include, under certain circumstances:

- maintaining premises in a manner that created an unsanitary condition likely to harbor mosquitos, rodents, vermin, or disease-carrying pests; and
- allowing weeds to grow on premises in a neighborhood if the

weeds were within 300 feet of another residence or commercial establishment.

These conditions would be a public nuisance if:

- the condition on that land had been found to have caused a public nuisance in the preceding year; and
- a finding of public nuisance could have been applied to that condition when it first occurred.

"Undeveloped land" would be defined as land in a natural, primitive state that lacked improvements, infrastructure, or utilities and that was not located in a municipality.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Health benefit plan coverage of enrollees with a terminal illness

COMMITTEE: Insurance — committee substitute recommended

VOTE: 9 ayes — Frullo, Muñoz, G. Bonnen, Guerra, Meyer, Paul, Sheets, Vo, Workman

0 nays

WITNESSES: For — (*Registered, but did not testify*: Cam Scott, American Cancer Society Cancer Action Network; Dennis Borel, Coalition of Texans with Disabilities; Dianne Wheeler, League of Women Voters of Texas; Kirby Consier, Leukemia and Lymphoma Society; Patricia Cannon, Novartis Oncology; Patricia Kolodzey, Texas Medical Association; Michael Wright, Texas Pharmacy Business Council; Carlos Higgins, Texas Silver Haired Legislature)

Against — None

On — Doug Danzeiser, Texas Department of Insurance

DIGEST: CSHB 2541 would prohibit certain health benefit plans from denying coverage for treatment for a terminal illness based solely on an enrollee's diagnosis with a terminal illness. The bill also would prohibit a health benefit plan issuer or third-party administrator from refusing to accept a physician's recommendation of treatment or from reducing, prohibiting, or denying payment or other forms of reimbursement for treatment based solely on the enrollee's diagnosis with a terminal illness.

"Treatment" under the bill would include medically accepted treatment for a terminal illness or other illness or condition to which the enrollee or the enrollee's representative consented that was prescribed by a physician to treat the terminal illness or other illness or condition. A "terminal illness" would mean an illness or physical condition, including a physical injury, that reasonably could be expected to result in death within two years.

The bill would specify that a violation of its provisions would be an unfair

or deceptive act or practice in the business of insurance and an unfair claim settlement practice.

A health benefit plan issuer or third-party administrator that committed a violation under the bill also would be subject to administrative penalties.

The bill's provisions would not apply to a health benefit plan that provided coverage:

- only for a specified disease or for another limited benefit;
- only for accidental death or dismemberment;
- for wages and payments in lieu of wages for a period during which an employee was absent from work because of sickness or injury;
- as a supplement to a liability insurance policy;
- for credit insurance;
- only for dental or vision care;
- only for hospital expenses; or
- only for indemnity for hospital confinement.

The bill's provisions also would not apply to a Medicare supplemental policy, a workers' compensation insurance policy, medical payment insurance coverage provided under a motor vehicle insurance policy, or a long-term care insurance policy, including a nursing home fixed indemnity policy, unless the policy provided benefit coverage so comprehensive that the policy would be considered a health benefit plan covered by the bill.

The bill would take effect September 1, 2015, and would apply only to a health benefit plan delivered, issued for delivery, or renewed on or after that date.

SUPPORTERS SAY:

CSHB 2541 would proactively protect a patient being treated for a terminal illness from having coverage terminated solely because of that illness. Another state recently enacted severe restrictions on access to cancer treatment for patients in later stages of a terminal illness. CSHB 2541 is necessary to ensure that patients in Texas do not face this same circumstance.

Patients and physicians should never have to worry about denial of care due to a terminal diagnosis. This bill would ensure that when doctor and patient agreed to treat a condition, the patient's existing health insurance plan could not deny coverage because of that decision. The bill would not expand a patient's existing health insurance coverage, nor would it change benefits in a patient's existing health insurance plan.

OPPONENTS SAY:

CSHB 2541 is not necessary because health insurance carriers already are required to cover any medically necessary service, which would include treatment for a terminal illness.

SUBJECT: Establishing a health care advocacy program for veterans.

COMMITTEE: Defense & Veterans' Affairs — favorable, without amendment

VOTE: 6 ayes — S. King, Frank, Aycock, Blanco, Farias, Schaefer

1 nay — Shaheen

WITNESSES: For — Maureen Jouett, Kwva Chapter 222 Centex; Fred Lord, Military Order Purple Heart; Olie Pope, Veterans County Service Officers Association of Texas; (*Registered, but did not testify*: Judith Dubose; Romana Harrison; Sheena Harsh; Katharine Ligon, Center for Public Policy Priorities; Eric Woomer, Federation of Texas Psychiatry; Monique Rodriguez, Grace After Fire; Bill Kelly, Mental Health America of Greater Houston; Laura Austin and Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Morgan Little, TCVO; Jim Brennan, Texas Coalition of Veterans Organizations; James Cunningham, Texas Coalition of Veterans Organizations and Texas Council of Chapters of the Military Officers Association of America; Lee Johnson, Texas Council of Community Centers; Randall Chapman, Texas Legal Services Center; Michelle Romero, Texas Medical Association; Conrad John, Travis County Commissioners Court; Casey Smith, United Ways of Texas; Olie Pope, Veterans County Service Officers Association of Texas)

Against — None

On — Tom Palladino and Victor Polanco, Texas Veterans Commission

DIGEST: HB 1762 would require the Texas Veterans Commission by rule to establish and implement a health care advocacy program to assist veterans in gaining access to U.S. Department of Veterans Affairs health care facilities. The program would assist veterans by:

- resolving access issues raised by Texas veterans or referred to the commission through the veterans toll-free hotline operated under the Natural Resources Code;
- coordinating with the federal Veterans Health Administration to

support health care advocacy program;

- coordinating with Texas health care providers to expand opportunities to treat veterans through the Department of Veterans Affairs;
- reviewing and researching programs, projects, and initiatives designed to address veterans' health care needs;
- evaluating the effectiveness of the commission's efforts to improve health care services and assistance for veterans;
- making recommendations to the executive director of the commission to improve health care services and assistance for veterans;
- incorporating veterans' health care issues into the commission's strategic plan;
- assisting veterans in securing benefits and services; and
- recommending legislative initiatives and policies at the local, state, and national levels to address veterans' health care issues.

The commission's executive director would appoint a program coordinator, and the commission would provide facilities to support the program as appropriate and to the extent funding was available.

The bill would require the commission to establish the program by January 1, 2016 and to adopt rules to implement it.

HB 1762 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY:

HB 1762 would establish a health care advocacy program for veterans utilizing experienced advocates to serve as liaisons between veterans and health services provided through federal programs. These advocates, who are closely associated with the U.S. Department of Veterans Affairs (VA), would provide much-needed assistance to veterans in resolving access issues related to doctors' appointments, health tests, pharmacy assistance, and attaining outside referrals and fee-basis referrals for health care services that the VA does not perform. Currently, more than 1 million veterans live in Texas, about 485,000 of whom are enrolled in the VA

health care system. HB 1762 could improve the quality of life of many veterans by helping them navigate road blocks that come up when dealing with their health care, relieving a burden that could otherwise lead to depression and stress.

The program provided by HB 1762 is needed. While county resources officers currently provide claims and representation services for veterans, they do not offer on-site, specialty medical care advocacy. The partnership formed within the health care advocacy program for veterans would include experts trained to work within the VA health system and to advocate for veterans in that environment.

OPPONENTS SAY:

HB 1762 would be redundant and result in an overlap of resources because counties already have resource officers to work with veterans for the types of services covered by the bill. While the LBB's fiscal note shows no significant fiscal implication, the House's proposed budget would spend about $786,000 on the program in fiscal 2016-17.

SUBJECT: Changing notice deadline for hospital, emergency medical services liens

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 7 ayes — Oliveira, Simmons, Collier, Fletcher, Rinaldi, Romero, Villalba

0 nays

WITNESSES: For — Teresa Kiel, County and District Clerks' Association of Texas; (*Registered, but did not testify*: Patti Henry, Cary Roberts, Diane Hoefling, Donna Brown, and Caroline Woodburn, County and District Clerks' Association of Texas)

Against — None

BACKGROUND: Under Property Code, ch. 55 a hospital or emergency medical services provider has a lien on a cause of action or claim of an individual who received either hospital or emergency medical services, whichever is applicable, for injuries caused by an accident that is attributed to the negligence of another person. The lien attaches to a cause of action, a judgment of a court in a proceeding, and the proceeds of a settlement related to a claim by the injured individual based on those injuries.

For the lien to attach, the individual must be admitted to the hospital or receive the emergency medical services, whichever is applicable, within 72 hours of the accident. To secure the lien, a hospital or emergency services provider must provide notice to the injured individual and file written notice of the lien with the county clerk of the county in which the services were provided.

DIGEST: HB 1862 would change the date by which the hospital or emergency services provider would need to send a written notice to the injured individual or the individual's legal representative in order to secure the hospital or emergency services provider's lien. The hospital or emergency services provider would be required to send the notice within five business days of the date the hospital or emergency services provider filed the notice of lien with the county clerk.

The bill would take effect September 1, 2015, and would apply only to a lien for services provided to an injured individual on or after that date.

SUPPORTERS SAY:

HB 1862 would clarify the county clerk's duties in the lien-recording process for liens filed by a hospital or emergency services provider. It would remove confusing wording that has led to the mistaken belief that it was the duty of the county clerk to send a hospital or emergency services provider notice that a lien had been recorded. When a lien is recorded, it puts the public on notice of its existence — nothing more is required by the county clerk.

OPPONENTS SAY:

HB 1862 is unnecessary because current law does not require the county clerk to send notice to a hospital or emergency medical services provider. The most efficient way to clarify this would be to correctly train new clerks in the counties that have this misunderstanding.

SUBJECT: Modifying land appraisal methods used for nonstandard agriculture

COMMITTEE: Agriculture and Livestock — favorable, without amendment

VOTE: 6 ayes — T. King, C. Anderson, Cyrier, González, Rinaldi, Simpson

1 nay — Springer

WITNESSES: For — Judith McGeary, Farm and Ranch Freedom Alliance; Jay Crossley, Houston Food Policy Workgroup; Lorig Hawkins, Texas Young Farmers Coalition; Skip Connett; Ed Moers; Teresa Strube; (*Registered, but did not testify*: Wendy Wilson, Braun and Gresham; Glynnh Schanen, Farm and Ranch Freedom Alliance; Annie Spilman, National Federation of Independent Business-Texas; Ronda Rutledge, Sustainable Food Center; Evan Driscoll, Texas Organic Farmers and Gardeners Association; Kelley Masters; Ellen Moers; Lara Raich; Ashley Schlosser)

Against — (*Registered, but did not testify*: Donna Warndof, Harris County)

On — Travis Miller, AgriLife Extension Service; Brent South, Texas Association of Appraisal Districts; (*Registered, but did not testify*: Marya Crigler, Travis Central Appraisal District)

DIGEST: HB 1900 would require a chief appraiser, in the appraisal of agricultural land, to distinguish between the degree of intensity required for various agricultural production methods, including organic, sustainable, pastured poultry, rotational grazing, and other uncommon production methods or systems.

This bill also would include the production of fruits and vegetables and nonprofit community gardens, as defined in the bill, in the definition of "agricultural use" for the purposes of determining if a property receives an agricultural exemption.

The bill would require the comptroller, in consultation with the Texas A&M AgriLife Extension Service and individuals representing appraisal

districts and affected producers, to develop and distribute to appraisal districts three sets of guidelines by September 1, 2016. These guidelines would provide circumstances in which agricultural exemptions could be granted for land used for:

- multiple agricultural purposes;
- small-scale production on land smaller than 10 acres used for the production of fruits, vegetables, poultry, hogs, sheep, or goats; and
- nonprofit community gardens.

These guidelines could include recordkeeping requirements consistent with normal practices of agricultural operations and nonprofit community gardens.

The comptroller also would be required to provide educational resources to chief appraisers to assist with the appraisal of land using the guidelines this bill would require the comptroller to develop. These educational resources would be required to cover organic and sustainable production and pastured poultry.

This bill would apply to the appraisal of land for a tax year beginning on or after January 1, 2017.

This bill would take effect September 1, 2015.

SUPPORTERS SAY:

HB 1900 would clarify current law so that sustainable farms and community gardens (among other uncommon agricultural operations) could receive the agricultural valuation to which their property should be entitled.

Current law does not include fruit and vegetable production in the definition of agricultural use. Because of this omission, some appraisal districts have elected to apply intensity standards based on row crops to determine whether a property should receive an agricultural valuation. However, growing row crops is different from fruit and vegetable production, which means that some farmers of fruits and vegetables are being denied the agricultural exemption despite the clear agricultural use of their land.

For this same reason, many operations using sustainable farming practices such as rotational grazing or diversified farming are denied agricultural valuations because the assessor is either unfamiliar with the practice or does not have suitable guidelines to evaluate the intensity of the operation.

The bill would allow community gardens to apply for agricultural valuations as well. Community gardens often are located in food deserts, where residents have no consistent access to fresh fruits and vegetables, which are common in urban environments. Despite their clearly agricultural purpose and benefit to society, community gardens currently do not receive agricultural valuations. This can shutter inner-city nonprofit community gardens where market value property valuations are high.

This bill would not significantly decrease local taxing district revenue. It would not repeal the statutory requirement that a property have been used for agricultural purposes for the previous five years, nor would it repeal the rollback tax. Essentially, a taxing district would only lose revenue if a property had been used for agricultural purposes for more than 10 years, reducing the possibility for fraudulent use of the provisions in this bill.

OPPONENTS SAY:

HB 1900 could result in a decrease in revenue for local taxing districts and a potential increase in fraud. There is a possibility that backyard gardens or other auxiliary uses could qualify a property for the agricultural exemption if the definition of "agricultural use" were expanded.

NOTES:

The Legislative Budget Board's fiscal note indicates that the bill would not have an impact in the 2016-17 biennium but that the bill would have a negative impact on general revenue related funds of about $43 million in the 2018-19 biennium.

SUBJECT: Exempting businesses, employees in disaster relief from requirements

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 9 ayes — Phillips, Nevárez, Burns, Dale, Johnson, Metcalf, Moody, M. White, Wray

0 nays

WITNESSES: For — Bob Digneo, AT&T Texas; John W. Fainter, Jr., Association of Electric Companies of Texas, Inc.; (*Registered, but did not testify*: Skip Ogle, Cable; Henry Flores, CenturyLink, Inc.; Leo Munoz, Comcast; Donna Warndof, Harris County; Velma Cruz, Sprint; Lucas Meyers, Texas Cable Association; Riley Stinnett, Texas Gas Service; Ian Randolph, Texas Telephone Association; Todd Baxter, Time Warner Cable; Jennifer Fagan, Windstream Communications)

Against — None

On — (*Registered, but did not testify*: Walter Roberts, Associated Security Services and Investigators of Texas; Sherrie Zgabay, Texas Department of Public Safety-Regulatory Services)

DIGEST: HB 2358 would amend the Business and Commerce Code to exempt out-of-state business entities from certain obligations if their business in Texas was limited to disaster- or emergency-related work during a disaster response period.

The bill would define "disaster response period" to mean the period that began 10 days before the earliest event establishing a state disaster or emergency declared by the relevant authorities. The period would end 60 days after the ending date of the disaster or emergency period or on a later date as determined by the secretary of state.

Under the bill, these business entities would not be required to:

- register with the secretary of state;

- file a tax report with or pay taxes or fees to the state or a political subdivision of the state;
- pay a property tax or use tax on equipment that the business entity brings into Texas and is used only by the entity to perform disaster or emergency-related work during the disaster response period, and is removed from the state after the disaster response period;
- comply with any state or local business licensing or registration requirements; or
- comply with any state or local occupational licensing requirements or related fees.

The bill also would exempt from certain obligations out-of-state employees whose only employment in Texas was to perform disaster- or emergency-related work during a disaster response period. These employees would not be required to:

- file a tax report with or pay taxes or fees to the state or a political subdivision of the state; or
- comply with any state or local occupational licensing requirements or related fees.

The bill would not allow out-of-state business entities and employees to be entitled to any of these exemptions if they remained in Texas after a disaster response period.

The bill also would require that out-of-state business entities and employees who were performing only disaster- or emergency-related work during a disaster response period be subject to a transaction tax or fee, including a motor fuels tax, sales or use tax, hotel occupancy tax, and the tax imposed on the rental of a motor vehicle unless the entity or employee was otherwise exempt from the tax or fee.

The bill would require an out-of-state business entity to provide the secretary of state, at the secretary's request, a statement that the entity came to Texas for the purpose of performing disaster- or emergency-related work during a disaster response period. The statement would have to include:

- the entity's name;
- the entity's jurisdiction of formation;
- the address of the principal office of the entity;
- the entity's federal tax identification number;
- the date that the entity entered the state; and
- contact information for the entity.

The bill would require an in-state business entity to provide all the same information to the secretary of state, at the secretary's request, for any affiliate of the in-state business entity that entered Texas as an out-of-state business entity. The secretary of state would be required to keep records of and make available to the public any statements or information provided to the secretary under these requirements. The secretary of state would be required to adopt regulations to implement the bill, including developing any necessary forms or processes.

The bill would amend the Tax Code to exempt out-of-state businesses from certain obligations if the business' physical presence in the state was only for its performance of disaster- or emergency-related work during a disaster response period. The bill would exempt these businesses from being considered as engaged in business in the state and from having to file a tax report, and would exempt taxable items from being taxed if they were sold, leased, or rented by the out-of-state business entity.

The bill also would amend the definition of a taxable entity to exclude out-of-state business entities whose sole connection to state taxation requirements was their provision of disaster- or emergency-related work during a disaster response period. The exclusion in this section of these business entities would apply to tax reports originally due on or after January 1, 2016.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY:

HB 2358 would remove obstacles and unnecessary delays faced by out-of-state businesses that want to enter the state and assist Texans in disaster

and emergency relief efforts. Currently, out-of-state businesses interested in providing recovery assistance are subject to all the requirements of permanent Texas businesses, including certain registration, licensing, and tax requirements. This bill would provide exemptions to these requirements that could speed up recovery efforts and facilitate the deployment of individual emergency workers who were engaged in emergency assistance throughout the country.

It would allow out-of-state businesses and employees to quickly respond to disasters when Texas businesses were damaged or in short supply. These services would include restoration of critical infrastructure, reopening of roads, and delivery of needed supplies.

Although the bill would exempt businesses from several requirements, it would limit the scope of those businesses' activities to work that contributes to disaster or emergency relief, and only during a disaster response period. These conditions would be clearly defined in the bill. Any businesses and employees remaining in the state after the disaster period ended would no longer be entitled to any of the exemptions.

The bill would not create any increased risk to public safety by allowing unlicensed employees into the state to assist in disaster recovery. Most individuals who would come into Texas to assist in disaster recovery are employees of service companies that would not require any type of licensing, even in Texas. Since many of the employees are not required to be licensed or undergo a background check in this state, allowing them to come from other states as unlicensed employees would not be creating any increased risk to Texans.

The bill would encourage reciprocity from other states so businesses may assist in rapid disaster recovery wherever an emergency or disaster may occur. This bill is based on model legislation written by the National Conference of State Legislatures, and many states have passed similar bills. Texas' size and influence could encourage even more states to adopt similar legislation and allow employees to travel between states freely in times of emergency need.

OPPONENTS

HB 2358 could negatively affect Texas businesses. Texas companies are

SAY:

required to comply with all business and employee regulations, but this bill would allow out-of-state companies to be exempt from many of those restrictions, putting the state's businesses at a competitive disadvantage.

The bill could create public safety risk. Many business entities and employees would be entering the state during an emergency without being required to follow any licensing or registration requirements. This bill would not require businesses and individuals to be licensed, and some states may not have registration or licensing requirements of their own. While Texas requires fingerprint background checks and registration with the Department of Public Safety, some states have only name-based background checks or require no background checks at all for their businesses and employees. Allowing unlicensed individuals that were not subject to rigorous background checks into the state during a vulnerable disaster period could pose a risk.

The bill also could create concerns that businesses and individuals coming into Texas may not be properly insured, which could be especially problematic given the potential increased risks during a disaster or emergency situation.

Exempting these businesses from certain taxes and fees also would cost the state an estimated $62.6 million according to the fiscal note. The state has numerous other unmet needs that it should fund before providing this kind of tax break.

NOTES:

HB 2358 would have an estimated negative fiscal impact to general revenue of about $62.6 million through fiscal 2016-17.

The author plans to introduce a floor amendment that would change the definition of a disaster response period. A disaster response period would end on the earlier of 120 days after the start date or 60 days after the ending date of the disaster or emergency period; or the period that began on the date an out-of-state business entity entered Texas under a mutual assistance agreement and in anticipation of a state disaster or emergency, regardless of whether a disaster actually occurred, and ended on the earlier of the date when the work was concluded or seven days after the out-of-state business entity entered the state.

The amendment would limit the out-of-state business entities that could benefit from the bill to entities that entered the state at the request of an in-state business under a mutual assistance agreement or were an affiliate of an in-state business entity. It would exclude from the definition of out-of-state employees any employee whose primary function was to provide security services or employees who installed or repaired heating or cooling equipment.

The amendment would exempt out-of-state employees from complying with occupational licensing requirements or fees if the employee were in substantial compliance with occupational licensing requirements in the employee's state of residence or principal employment.